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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,648	02/19/2002	Edward A. Varel	P67273US0	2587

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

EXAMINER

HANNON, THOMAS R

ART UNIT PAPER NUMBER

3682

DATE MAILED: 05/28/2003

JACOBSON HOLMAN PLLC

Response Due On Or Before

8 / 28 / 03
Month Day Year

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,648

Applicant(s)

VAREL ET AL.

Examiner

Thomas R. Hannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Tertinek et al.

Tertinek discloses a seal and bearing assembly for receiving and supporting one end of a paddle shaft (12) extending through an aperture (40) in an end wall (10) of a drum of a mortar mixer which comprises a housing removably attached to the drum end wall (although shown as welded, it is removable), bearing (22) and seal (34) subassemblies laterally spaced in the housing and surrounding the shaft and supporting the shaft from the housing adjacent an end extremity of the shaft, a trunnions member (26) surrounding and journaling the housing from a support (27), and the housing and the bearing and seal subassemblies combined into a unitary assembly which can be removed and replaced.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tertinek et al. in view Stow. Tertinek is described above. Stow (Reference AN from Applicant's Information Disclosure Statement) describes mortar mixers in which a " 'Seep' hole located in the trunnions assembly indicates when seals need replacement." It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the

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mortar mixer trunnions assembly of Tertinek to include an opening in a bottom portion between the bearing and seal subassemblies in view of the teachings of Stow.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tertinek as applied to claim 5 above, and further in view of Whiteman, Jr., and Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tertinek et al. in view of Stow as applied to claims 1 and 8, respectively, above, and further in view of Whiteman, Jr. Whiteman discloses a mortar mixer in which the housing 11 is attached to the drum end wall through a bolted flanged attachment 17. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tertinek to include a flanged bolted attachment to the drum wall, because this is taught and suggested by Whiteman as being a known alternate attachment of a mortar mixer bearing assembly.

Claims 4, 7, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tertinek et al. and Tertinek et al. in view of Stow as applied to claims 1, 5, and 8 above, and further in view of Miyazawa et al.

Miyazawa et al. discloses a bearing assembly in which the bearing is provided with an engagement surface on the outer periphery to engage a bearing puller. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bearing assembly to include a peripheral engaging means or shoulder on the housing of Tertinek et al. to enable the use of a bearing puller, as taught and suggested by Miyazawa et al.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas R. Hannon whose telephone number is (703) 308-2691. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Thomas R. Hannon
Primary Examiner
Art Unit 3682

trh
May 22, 2003